

PETITIONING FOR A WRIT  
OF HABEAS CORPUS UNDER  
28 U.S.C. 2241

*Civil 06-2344(AET)*

Jorge Guerra (SBI)#503385  
(INM)#542027-[E-1-C]  
Central Reception & Assignment Unit  
P.O. Box 7450  
West Trenton, NJ 08628

RECEIVED

MAY 24 2006

Vs.

AT 8:30  
WILLIAM T. WALSH  
CLERK

United States Department of  
Homeland Security [REDACTED] and  
the District Director for the  
Immigration and Custom  
Enforcement Agency [REDACTED]

And the Officer in Charge  
for [REDACTED]  
[REDACTED], and  
Warden or Custodian of said  
County [REDACTED]  
et al.

Please complete the following: (Check appropriate number)

This petition concerns:

1. (a) Due Process Violations
- (b) Substantive Due Process Violations
- (c) Estoppels - "In Custody"
- (d) Constitutional laws-International Law Treaties

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2. Place of confinement: Central Reception & Assignment Facility-  
CADRE UNIT-P.O. Box 7450 West Trenton, NJ 08628.

3. Name and location of Court, which imposed order, sanction, ruling:  
U.S. Department of Homeland Security-the Immigration and Customs  
Enforcement Agency, (DHS)-(ICE).

4. The Order number and/or disposition number (if known) upon which  
the order was process:

- a. A# 72 553 331
- b. Notice of Action
- c. "In Custody" Challenge

5. The date upon which the judgment was imposed and the terms of the  
Sentence

- a. \_\_\_\_\_
- b. H-24-06 Warrant-Detainer (ICE)
- c. \_\_\_\_\_

6. Check whether a finding of guilty was made:

After a plea of guilty

7. If you were found guilty after a plea of not guilty, check whether that  
Finding was made by:

A Judge only

8. Did you appeal from the judgment of upon the order, imposition,  
Sanction, order, ruling, and/or final order?

No.

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9. If you appealed, give the following information for each appeal:

a. (1) Name of court

n/a

(2) Result

(3) Date of result

(4) Citation or number of opinion

(5) Grounds raised (list each):

(a)

(b)

(c)

(d)

b. (1) Name of court

n/a

(2) Result

(3) Date of result

(4) Citation or number of opinion

(5) Grounds raised (list each):

(a)

(b)

(c)

(d)

10. State **CONCISELY** every ground on which you claim that you are being held unlawfully. **Summarize briefly the facts** supporting each **Ground**, if necessary attach a **SINGLE** page only behind this page.

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10. Continued

a. Ground One: Due Process Violations

Petitioner states that he exhausted the facts due to his removal from the United States, he is sure that he is going to be ordered removed from the United States of America for his activities in the offenses that precluded to his aggravated felony and he now request to be place on an order of supervision by the authorities of the Immigration and Customs Enforcement authorities due to the fact of not having a foreseeable future of removal would include unconstitutional issues that would violate the petitioner freedom and his "Life and Liberty" of all the nations especially international laws and their treaties.

b. Ground Two: Substantive Due Process Violation

Petitioner as to be completely reviewed by the Immigration and Customs Enforcement Agency for a possible relief from the undue hardship of being unlawfully detained without a possible foreseeable future of removal from the United States at this time, accordingly the issues at hand are as follows: the petitioner is of Cuban decent and due the facts between the country of Cuba and the United States of America do not have any treaties at this time or any foreseeable future and also the facts that the United States does have an economic embargo with Cuba and that there is no embassies in the United States makes the matter at least an extreme hardship for the petitioner seeking interim relief from undue custody and hardships especially the Immigration and Custom Enforcement plans to detain the petitioner said for at least (6) months by the cases at hand that is really cruel and unusual punishment for a petitioner that being further released to be detain again by the (ICE) and the U.S. Department of Homeland Security-ICE.

c. Ground Three: Estoppels

Petitioner claims that all the officer for this agency of (ICE) and the courts also stated that he is being deprived of "life and liberty" and that since he is a foreigner he will not be included to protect him from the six months of unforeseeable detention without any cause of action for his removal any time soon or possible removal, just being held for the six month is a to much of lengthy time to serve not purpose towards any action of the (ICE) this matters violates all treaties with constitutions and international laws and treaties with the respect of personal liberties and life. The petitioner was not allowed to speak his mind and others while in the surrounding of the U.S. Department of Homeland Security custody or the time given the Order to Show Cause or Notice of Intent by ICE and the government intentions wonder what is next to the effect or enactment of the Immigration and customs enforcement attempts.

5

**D. Ground Four: Constitutional Laws and International Laws and Treaties**

Petitioner seeks to have all relevant facts and acts and events that would hesitate for the petitioner to have without a doubt unreasonable detention for a possible expedited removal order executed at any time soon or in other words in the foreseeable future to legalize any detention on the petitioner sufficient grounds to detain and remove the petitioner at any given time or likely to happen in near future. Petitioner seeks to ask for the relief from undue hardships and other matters that would produce extreme hardships for the petitioner. The petitioner request to be heard on the issues that a substantial amount of detention time is unconstitutional because there is no cause or enforceable removal by the U.S. Department of Homeland Security at any time soon or in the near future to expedite any type of removal with the petitioner is obsolete and unjustly and violates all rights of the people basically citizens and aliens to all have rights and privileges to be free if there is no such cause for his detention violates any due process cause by all means. (Inefficient Purpose)

11 One of the grounds listed in 12A, B.C, and D, were not previously presented to any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them:

The petitioner is asking the his severe custodial detention is not likely to constitutional because the U.S. Immigration and Custom Enforcement cannot enforce any foreseeable or likeable future for his removal from the United States any time soon. This matter extremely violates all laws and treaties of international laws and matters relating to "life and liberty".

(a) Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

No.

(b) Give name and address, if known, of each attorney who represented you in the following stages of the judgment under attack:

None-Pro Se

12. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? No

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13. If you did not file a motion under section 2255 of title 28 United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to least the legality of your detention:

I did not file any such motion and was tempted to file all and any petition or legal forms defending my such detention that is unforeseeable future and is not legal in terms of the civil laws and the constitution of the United States and the people it represents. Basically, the matter in hand is not likely to approach any agreements any time soon for a possible removal from the United States to the Neighboring country of Cuba. This why my arguments are related to proceed in a legal matter to ask the Courts and the U.S. District Court for a possible relief toward any unlikely detention by (ICE). The petitioner is also asking and requesting to be place on an Order of Supervision by (ICE) and be registered for a Authorized Employment Document (AED) -I-796 and the fees to be waived for all the specified until the petitioner is able to pay the costs.

14. Are you presently represented by counsel? Yes [ ] No [ x ]

If so, please give the name, address, and telephone number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ N/A

Case name and court \_U.S. Dept. of Homeland Security-ICE

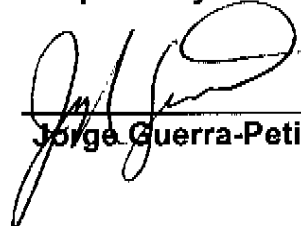
And the Executive Offices for Immigration Reviews-EOIR

If you seeking leave to proceed in forma pauperis, have you completed the setting forth the required information: Yes ☒ No [ ]

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

Signed on the 16<sup>th</sup> day of May , 2006

Respectfully submitted,

  
\_\_\_\_\_  
Jorge Guerra-Petitioner

7.

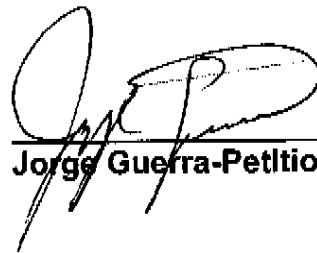
## **DECLARATION**

I, Jorge Guerra, declare under penalty of perjury that I have read and subscribed to the above and state that the information contained therein is true and correct to the best of my knowledge.

Executed On: May 16<sup>th</sup>,2006

At the Central Reception & Assignment Facility-CADRE UNIT-P.O. Box  
7450 West Trenton, NJ 08628.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jorge Guerra', is written over a horizontal line.

Jorge Guerra-Petitioner

U.S. Department of Justice  
Immigration and Naturalization Service

### **Immigration Detainer- Notice of Action**

File No. A 72 - 553 - 331  
Date: 4 , 24 , 06

SBI# 503385C

<b>To:</b> (Name and title of Institution) State of New Jersey Department of Corrections/ COHQ Whittlescy Road, PO Box 683 Trenton, NJ 08625 Attn: Sheila Schmidt and Marlene Lewis, <u>DOC Liaisons</u>	<b>From:</b> DHS/D & R Greentree Executive Campus 4002 Lincoln Drive West Marlton, New Jersey 08053 PH: 856-874-2300 FX: 856-589-0945
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Name of alien: JORGE GUERRA  
Date of Birth: 1 / 18 / 72 Nationality: Cuba Sex: M F  
(Month) (Day) (Year) (Male) (Female)

**You are advised that the Immigration and Naturalization Service concerning the above named inmate of your institution have taken the action noted below:**

- ☒ Investigation has been initiated to determine whether this person is subject to removal from the United States.
- ☐ A Notice to Appear of other charging document initiating removal proceedings, a copy of which is attached, was served on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_.  
(Date)
- ☐ A warrant of arrest on removal proceedings, a copy of which is attached, was served on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_.  
(Date)
- ☐ Deportation or removal from the United States has been ordered

**It is requested that you:**

**It is requested that you:**  
Please accept this notice as a detainer. This is for notification purposes only and does not limit your discretion in any decision affecting the offender's classification, work and quantum assignments, or other treatment which he or she would either wish receive.

- 8 Federal regulations (8 CFR 287.7) require that you detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sundays and Federal Holidays) to provide adequate time for ICE to assume custody of the alien. You may notify ICE by calling ( ) during business hours or ( ) (Area Code) (Phone Number) after hours in an emergency.

- ☐ Please complete and sign the bottom block of the duplicate of this form and return it to this office.
- ☐ A self-addressed stamped envelope is enclosed for your convenience.
- ☐ Please return a signed copy facsimile to ( ) (Facsimile Number)

Return fax to the attention of \_\_\_\_\_ at (\_\_\_\_\_) \_\_\_\_\_  
(Name of ICE Officer handling case) (Area Code) (Phone Number)

- ☒ Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.  
☒ Notify this office in the event of the inmate's death or transfer to another institution  
☐ Please cancel the detainer previously placed by this Service on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_.  
(Month) (Day) (Year)

(Signature of ICE Officer)

(Title of ICB Official)

Receipt acknowledged:

Date of latest conviction: \_\_\_\_\_ Latest conviction charge: \_\_\_\_\_  
Estimated release date: \_\_\_\_\_

Signature and title of Official: Paula A. Smith, DDS, I



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Jorge Guerra  
Petitioner

AFFIDAVIT IN SUPPORT OF  
REQUEST TO PROCEED  
IN FORMA PAUPERIS

v.

U.S. DHS -(ICE) et al.  
Respondent(s)

Civil Action No.

I, Jorge Guerra, being first duly sworn, depose and say that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees or costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding or to give security therefor; and that I believe I am entitled to relief.

I further swear that the responses which I have made to questions and instructions below are true:

1. Are you presently employed? Yes [ ] No [ ☒ ]
  - a. If the answer is "Yes," state the amount of your salary per month and give the name and address of your employer.  
\_\_\_\_\_  
\_\_\_\_\_
  - b. If the answer is "No," state the date of last employment and the amount of the salary per month you received.  
\_\_\_\_\_  
N/A
2. Have you received within the past twelve (12) months any money from any of the following sources?
  - a. Business, profession or form of self-employment? Yes [ ] No [ ☒ ]
  - b. Rent payments, interest, or dividends? Yes [ ] No [ ☒ ]
  - c. Pensions, annuities or life insurance payments? Yes [ ] No [ ☒ ]
  - d. Gifts or inheritances? Yes [ ] No [ ☒ ]
  - e. Any other sources? Yes [ ] No [ ☒ ]

If the answer to any of the above is "Yes," describe each source of money and state the amount received from each during the past twelve (12) months. \_\_\_\_\_  
N/A

3. Do you own any cash or do you have money in a checking or savings account? Yes [ ] No [✓] (include any funds in prison accounts). If the answer is "Yes," state the total value of the items owned. \_\_\_\_\_

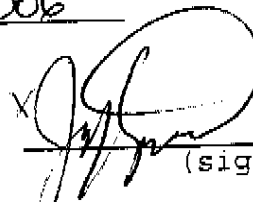
4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? Yes [ ] No [✓]

If the answer is "Yes," describe the property and state its approximate value. N/A

5. List the persons who are dependent upon you for support; state your relationship to those persons; indicate how much you contribute toward their support. N/A

I declare under penalty of perjury that the foregoing is true and correct.

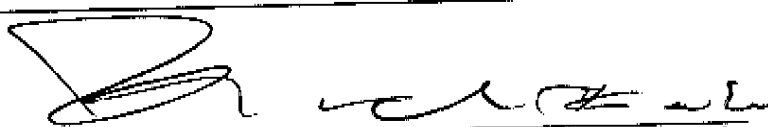
Executed on May 19th, 2006  
(date)

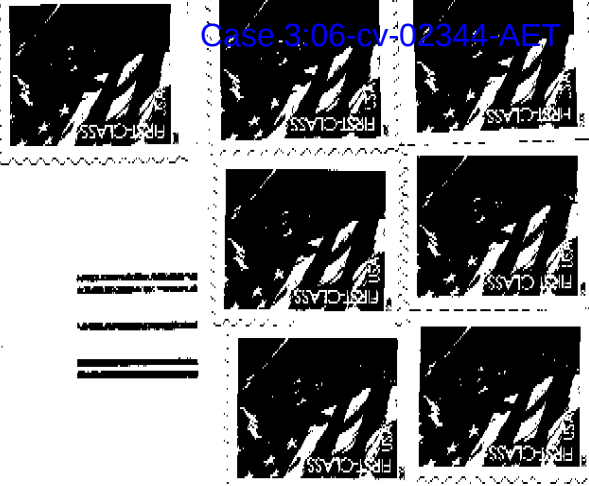
  
(signature)

**CERTIFICATE**

I hereby certify that the petitioner, Jorge Guerra confined at CRAE-CADRE UNIT-Trenton, NJ 08628, has the sum of \$ \_\_\_\_\_ on the account to his credit, and that in the last six months the highest balance recorded in that account was \$67.00. I further certify that the petitioner has the following securities to his credit according to the records of this institution CRAE-CADRE UNIT  
P.O. Box 7450-West Trenton, NJ 08628

DATED: May 19 2006

  
Business Manager or Other Authorized  
Officer of Institution



Jorge Guerra, (E-1-C)  
(SBI)#503385C(INM) \_\_\_\_\_  
CRAF-CADRE UNIT  
P.O. Box 7450  
West Trenton, NJ 08628

U.S. DISTRICT COURT  
Attn: Kent Marshall, (Deputy-In-Charge)  
Clarkson Fisher Federal Building  
U.S. Courthouse  
402 East State Street  
Trenton, NJ 08608

